

AMENDED IN ASSEMBLY MAY 14, 2001

AMENDED IN ASSEMBLY APRIL 30, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 680

Introduced by Assembly Member Steinberg

February 22, 2001

An act to add Article 10 (commencing with Section 65500) to Title 7 of the Government Code, ~~and to add Section 97.15 to,~~ and to add Chapter 1.5 (commencing with Section 7215) to Part 1.5 of Division 2 of; the Revenue and Taxation Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 680, as amended, Steinberg. Land use: sales tax and property tax revenue allocation.

Existing law generally authorizes counties and cities to evaluate and approve or deny land use projects within their jurisdiction. Existing law also permits stationary sources of air pollution to offset increases in emissions of air contaminants with air emission credits obtained by another stationary source for reductions in emissions of air contaminants, if specified requirements are met.

This bill would authorize counties and cities in the greater Sacramento region, as defined, to obtain air emission reduction credits in connection with a land use project, as defined, pursuant to specified provisions. This bill also would require the California Air Resources Board and districts, as defined, to develop criteria and methodology regarding the receipt of these air emission reduction credits. This bill also would require districts to facilitate the sale of air emission

reduction credits to a public or private entity that owns or operates powerplants located in, or proposed for construction in the greater Sacramento region. This bill also would authorize that public or private entity to use those air emission reduction credits to offset emissions of air contaminants from any powerplant located or proposed for construction in the greater Sacramento region. This bill would further require that the proceeds received by a district in connection with the sale of air emission reduction credits be used to fund other emission reduction programs, including, but not limited to, the preservation of open space in the greater Sacramento region as part of a smart growth land use project. *By requiring local governments in the greater Sacramento region to facilitate the sale of air emission reduction credits, and to develop criteria and methodology for the receipt of those credits, this bill would impose a state-mandated local program.*

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes a county to impose a local sales and use tax at a rate of 1.25%, and similarly authorizes a city, located within a county imposing such a tax rate, to impose a local sales tax rate of 1% that is credited against the county rate. Existing law requires a city, county, or city and county imposing a local sales and use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law to contract with the State Board of Equalization to administer the local sales and use tax. Existing law also requires the board, at least twice during each calendar quarter, to transmit local sales and use tax revenue to the city, county, or city and county in which the revenue was collected.

This bill would, pursuant to specified definitions and procedures, require the board to distribute sales ~~and use~~ tax revenue, derived from the application of a 1% tax rate in the greater Sacramento region, to taxing counties and cities in that region on the basis of (1) *the amount of sales tax revenue that those counties and cities received in the 2001 calendar year*; and (2) the relative populations of those counties and cities, as determined by the board and the population research unit of the Department of Finance.

This bill would make legislative findings and declarations as to the necessity of a special statute, and as to the public purposes served by this bill.

Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally requires that each jurisdiction be allocated an amount equal to the total



of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. Existing property tax law also reduces the amounts of ad valorem property tax revenue that would otherwise be annually allocated to the county, cities, and special districts pursuant to these general allocation requirements by requiring, for purposes of determining property tax revenue allocations in each county for the 1992-93 and 1993-94 fiscal years, that the amounts of property tax revenue deemed allocated in the prior fiscal year to the county, cities, and special districts be reduced in accordance with certain formulas. It requires that the revenues not allocated to the county, cities, and special districts as a result of these reductions be transferred to the Educational Revenue Augmentation Fund in that county for allocation to school districts, community college districts, and the county office of education.

~~This bill would, for the 2002-03 fiscal year and each fiscal year thereafter, reduce the amount of ad valorem property tax revenue allocated to county Educational Revenue Augmentation Funds in the greater Sacramento region by an amount equal to the amount of sales tax reimbursement payments that are made under this bill to counties in that region, and cities in those counties, that impose a local sales tax. This bill would define a sales tax payment reimbursement as an amount of property tax revenue that is equal to the additional amount of local sales tax revenue that a qualified local agency, as defined, would have received in the absence of other provisions of this bill. By imposing new duties upon local officials in the annual allocation of ad valorem property tax revenues, this bill would impose a state-mandated local program.~~

This bill would state the intent of the Legislature that a program be enacted to encourage cities and counties in the greater Sacramento region to establish smart growth land use projects, and that the program be funded by decreasing the amount of property tax revenue that is otherwise required to be allocated to Educational Revenue Augmentation Funds in the greater Sacramento region.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide



and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Article 10 (commencing with Section 65500) is added to Title 7 of the Government Code, to read:

Article 10. Sacramento Regional Smart Growth and Smart Energy Act of 2001

65500. (a) It is the intent of the Legislature to provide incentives in the form of air emission reduction credits, consistent with existing laws and regulations, for counties and cities to develop land use projects in a regional manner that promotes sustainable growth in order to reduce emissions of air contaminants and to provide for permanent open space in the state when the preservation of open space is a part of a smart growth land use project.

(b) It is further the intent of the Legislature to allow new and expanding powerplants in the greater Sacramento region to purchase air emission reduction credits in order to offset increased emissions of air contaminants from powerplants that may result from efforts to meet the state's growing need for supplies of power.

(c) It is the further intent of the Legislature to afford flexibility to powerplants in recognition of the current power crisis, but also to ensure that the air emission reduction credits that are issued meet local, state, and federal laws, rules, and regulations.

65501. For the purposes of this article, the following terms have the following meanings:

(a) "District" means an air quality management district or an air pollution control district created or continued in existence within the greater Sacramento region pursuant to Division 26 (commencing with Section 39000) of the Health and Safety Code.

1 (b) “Greater Sacramento region” means the region
2 encompassing the County of El Dorado, the County of Placer, the
3 County of Sacramento, the County of Sutter, the County of Yolo,
4 and the County of Yuba.

5 (c) “Land use project” includes, but is not limited to:

6 (1) Transit-oriented development.

7 (2) Infill development.

8 (3) Development to provide a balance between jobs and
9 housing.

10 (4) Mixed-use development.

11 (5) Neotraditional design development.

12 (d) “State board” means the California Air Resources Board.
13 65502. In connection with a land use project, a county or city
14 in the greater Sacramento region may receive air emission
15 reduction credits from the district pursuant to Section 40709 of the
16 Health and Safety Code, provided that the credits comply with
17 applicable local, state, and federal laws, rules, and regulations
18 governing air emission reduction credits.

19 65503. The state board shall, in conjunction with the districts,
20 do both of the following:

21 (a) Develop criteria for establishing which land use projects
22 qualify for air emission reduction credits.

23 (b) Develop a methodology to establish what amount of air
24 emission reduction credits are appropriate with respect to land use
25 projects.

26 65504. A district shall facilitate the sale of air emission
27 reduction credits issued pursuant to this article to a public or
28 private entity that owns or operates powerplants located in, or
29 proposed for construction in the greater Sacramento region. The
30 public or private entity may use those air emission reduction
31 credits to offset emissions of air contaminants from any
32 powerplant located in, or proposed for construction in the greater
33 Sacramento region.

34 65505. The funds received from the sale of air emission
35 reduction credits issued pursuant to Section 65504 shall be used to
36 fund other emission reduction programs, including, but not limited
37 to, the preservation of open space in the greater Sacramento region
38 when that preservation of open space is a part of a smart growth
39 land use project.

1 ~~SEC. 2.—Section 97.15 is added to the Revenue and Taxation~~
2 ~~Code, to read:~~

3 ~~97.15. (a) Notwithstanding any other provision of this~~
4 ~~article, for purposes of allocating property tax revenues for the~~
5 ~~2002–03 fiscal year and each fiscal year thereafter, the auditor of~~
6 ~~a qualified county shall do both of the following:~~

7 ~~(1) Reduce the total amount of ad valorem property tax revenue~~
8 ~~otherwise allocated to the county’s Educational Revenue~~
9 ~~Augmentation Fund by the total amount of the sales tax~~
10 ~~reimbursement payments transferred to qualified agencies in the~~
11 ~~county pursuant to paragraph (2).~~

12 ~~(2) Transfer a sales tax reimbursement payment to each~~
13 ~~qualifying agency.~~

14 ~~(b) The State Board of Equalization shall provide to the auditor~~
15 ~~of a qualified county any information necessary for the auditor to~~
16 ~~calculate a sales tax reimbursement payment.~~

17 ~~(c) For purposes of this section:~~

18 ~~(1) “Qualified agency” means both of the following:~~

19 ~~(A) A city or county whose local sales tax revenue under the~~
20 ~~Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5~~
21 ~~(commencing with Section 7200) of Division 2) was less in the~~
22 ~~2002 calendar year than in the 2001 calendar year as a result of the~~
23 ~~implementation of Chapter 1.5 (commencing with Section 7215)~~
24 ~~of Part 1.5 of Division 2.~~

25 ~~(B) A qualified county that has waived its rights under a~~
26 ~~revenue neutrality agreement entered into pursuant to Section~~
27 ~~56815 of the Government Code with respect to a city incorporation~~
28 ~~occurring on or after January 1, 1995, and before January 1, 2003.~~
29 ~~For any fiscal year to which this section applies, a county shall be~~
30 ~~deemed to have waived its rights as described by the preceding~~
31 ~~sentence if that county presents written confirmation of that~~
32 ~~waiver to the auditor no later than December 1 of that fiscal year.~~

33 ~~(2) “Qualified county” means any of the following:~~

34 ~~(A) The County of El Dorado.~~

35 ~~(B) The County of Placer.~~

36 ~~(C) The County of Sacramento.~~

37 ~~(D) The County of Sutter.~~

38 ~~(E) The County of Yolo.~~

39 ~~(F) The County of Yuba.~~

1 ~~(3) “Sales tax reimbursement payment” means, for a qualified~~
2 ~~agency, an amount of property tax revenue that is equal to the~~
3 ~~difference between the following amounts:~~

4 ~~(A) The local sales tax revenue, derived from a 1 percent sales~~
5 ~~tax rate, that a qualified agency would have received in the 2002~~
6 ~~calendar year under the statutes in effect on December 31, 2001.~~

7 ~~(B) The amount of local sales tax revenue, derived from a 1~~
8 ~~percent sales tax rate, that a qualified agency received during the~~
9 ~~2002 calendar year pursuant to Chapter 1.5 (commencing with~~
10 ~~Section 7215) of Part 1.5 of Division 2.~~

11 ~~SEC. 3.—~~

12 *SEC. 2.* Chapter 1.5 (commencing with Section 7215) is
13 added to Part 1.5 of Division 2 of the Revenue and Taxation Code,
14 to read:

15
16 CHAPTER 1.5. GREATER SACRAMENTO REGION PER CAPITA
17 REVENUE ALLOCATIONS
18

19 7215. The Legislature hereby finds and declares all of the
20 following:

21 (a) The situs-based allocation of local sales tax revenue has
22 caused serious fiscal problems and public service inefficiencies, as
23 well as a fiscalization of governmental land use decisions that
24 focuses upon maximizing sales and use tax revenue from retail
25 establishments, rather than upon land use needs in the community.

26 (b) Among other things, the situs-based allocation of local sales
27 tax revenue has led to unhealthy competition among local
28 jurisdictions for retail development, and to local government
29 revenue streams that do not correspond to the level of public
30 services supported by those revenue streams.

31 (c) The adverse results of the situs-based allocation of local
32 sales tax revenue has impacted each county and city imposing a
33 sales tax, and has not been remedied by either existing law or by
34 local actions or agreements. Instead, existing law and the
35 dynamics of local government finance have maintained or even
36 exacerbated the adverse fiscal, governmental, and public service
37 consequences of a situs-based allocation of local sales tax revenue.

38 (d) The greater Sacramento region provides a unique and
39 instructive perspective on the issue of local sales tax revenue
40 allocation, inasmuch as the greater Sacramento region continues

1 to be subject to both extremely rapid development and new
2 incorporations of jurisdictions with authority, under current law,
3 to impose a local sales tax. These dynamics establish the greater
4 Sacramento region as a region that is uniquely suited for the trial
5 and implementation of a proposed regional local sales tax revenue
6 allocation program aimed at eliminating the adverse fiscal,
7 political, and public service consequences of the situs-based
8 allocation of local sales tax revenue.

9 (e) It is the intent of the Legislature, in enacting this act, to
10 implement a pilot program of local sales tax allocation in the
11 unique circumstances currently presented by the greater
12 Sacramento region, that will allow state and local governments to
13 jointly establish, test, and refine an alternative system of local sales
14 tax revenue allocation.

15 7215.1. Notwithstanding any other provision of this part, all
16 of the following apply:

17 (a) The board shall segregate into a separate account that
18 amount of sales tax revenue, net of refunds, that is collected
19 pursuant to this part in the greater Sacramento region as a result of
20 the application of a 1 percent sales tax rate imposed pursuant to this
21 part.

22 ~~(b) For the second~~

23 ~~(b) (1) For the first calendar quarter of 2002 and each calendar~~
24 ~~quarter thereafter, the board shall multiply the most recent~~
25 ~~jurisdictional shares determined pursuant to Section 7215.2 by the~~
26 ~~total amount of revenues segregated for that quarter pursuant to~~
27 ~~subdivision (a). The board shall, in no fewer than two transmittals~~
28 ~~made during the next following calendar quarter, transmit the~~
29 ~~revenue allocations that are so calculated to those counties and~~
30 ~~cities in the greater Sacramento region that impose a sales tax~~
31 ~~pursuant to this part.~~

32 ~~(c) Notwithstanding any other provision of this chapter,~~
33 ~~“greater Sacramento region” means the region encompassing the~~
34 ~~total combined area of the County of El Dorado, the County of~~
35 ~~Placer, the County of Sacramento, the County of Sutter, the~~
36 ~~County of Yolo, and the County of Yuba: apportion the revenue~~
37 ~~segregated pursuant to subdivision (a) as follows:~~

38 ~~(A) First, calculate the base quarter revenue amount for each~~
39 ~~qualified county and qualified city.~~

1 (B) Second, multiply for each qualified county and qualified
2 city its most recent jurisdictional share determined pursuant to
3 Section 7215.2 by the total amount of revenues remaining after
4 subtracting all of the amounts calculated as required by
5 subparagraph (A).

6 (2) During each calendar quarter, the board shall transmit to
7 each qualified county and qualified city both of the following:

8 (A) The county's or city's base quarter revenue amount for that
9 quarter in one or more installments.

10 (B) The amount calculated for that county or city pursuant to
11 subparagraph (B) of paragraph (1) in two or more installments.

12 (c) Notwithstanding any other provision of this chapter:

13 (1) "Base quarter revenue amount" means an amount of sales
14 tax revenue that is equal to the amount of sales tax revenue that a
15 qualified county or qualified city in the greater Sacramento region
16 received in the corresponding calendar quarter in the year 2001.

17 (2) "Greater Sacramento region" means the region
18 encompassing the total combined area of the County of El Dorado,
19 the County of Placer, the County of Sacramento, the County of
20 Sutter, the County of Yolo, and the County of Yuba.

21 (3) "Qualified city" means a city in the greater Sacramento
22 region that imposes a sales tax pursuant to this part.

23 (4) "Qualified county" means a county in the greater
24 Sacramento region that imposes a sales tax pursuant to this part.

25 7215.2. (a) No later than March 1 of 2002 and each year
26 thereafter, and within 30 days of determining new population
27 estimates pursuant to subparagraph (B) of paragraph (2) of
28 subdivision (c), the board shall calculate the jurisdictional shares,
29 determined pursuant to subdivision (b), for those counties and
30 cities imposing a sales tax pursuant to this part in the greater
31 Sacramento region.

32 (b) The board shall, for each county or city imposing a sales tax
33 pursuant to this part in the greater Sacramento region, determine
34 a jurisdictional share in accordance with the following formula:

35 (1) Determine the total population of the greater Sacramento
36 region.

37 (2) Determine the total population of the relevant county or
38 city. In the case of a county, total population means the total
39 population of only the unincorporated area of that county.

(3) Divide the amount determined pursuant to paragraph (2) by the amount determined pursuant to paragraph (1).

(c) (1) Except as otherwise provided in paragraph (2), the population determinations described in subdivision (b) shall be made upon the basis of annual population estimates that are made by the population research unit in the Department of Finance for purposes of this section, and are transmitted to the board not later than February 1 in each year.

(2) (A) For the 2002 calendar year, the population determinations described in subdivision (b) shall be made on the basis of the later of the following:

(i) The most recent population estimates for counties and cities in the greater Sacramento region, as otherwise required or authorized by law, that have been made by the population research unit in the Department of Finance.

(ii) The most recent census validated by the population research unit in the Department of Finance.

(B) The population research unit in the Department of Finance shall newly estimate the population of the affected city, and any other affected city or county in the greater Sacramento region, and provide those new estimates to the board within 30 days after any of the following occur:

(i) A newly incorporated city in the greater Sacramento region imposes a sales tax pursuant to this part. For purposes of this clause, the population of a newly incorporated city shall be determined pursuant to subdivision (c) of Section 11005.3.

(ii) A city in the greater Sacramento region that imposes a sales tax pursuant to this part completes the annexation of additional territory.

(iii) A consolidation of one city in the greater Sacramento region with another city in that region results in a consolidated city that imposes a sales tax pursuant to this part.

~~SEC. 4. Chapter 1.5 (commencing with Section 7215) of Part 1.5 of Division 2 of the Revenue and Taxation Code shall cease to be operative if either of the following occur:~~

~~(a) Section 97.15 of the Revenue and Taxation Code is repealed.~~

~~(b) Section 97.15 of the Revenue and Taxation Code is amended so that counties and cities in the greater Sacramento region do not receive sales tax reimbursement payments that fully~~

~~reflect the difference between the amounts specified in paragraph (3) of subdivision (c) of that section as that section read on January 1, 2002.~~

~~SEC. 5.—~~

SEC. 3. It is the intent of the Legislature to enact a program to encourage cities and counties in the greater Sacramento region, as defined in Section 7215.1, to establish smart growth land use projects, and to fund this program with revenues that are otherwise required by law to be allocated to Educational Revenue Augmentation Funds in the greater Sacramento region. It is the further intent of the Legislature that this program not interfere with any revenue neutrality agreement that exists when this program is enacted.

SEC. 4. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because the unique fiscal, jurisdictional, and public service dynamics in the greater Sacramento region provide a unique opportunity to implement and refine possible solutions to the fiscal, planning, and public service problems resulting from the imposition of multiple local sales taxes.

~~SEC. 6.—~~

SEC. 5. The Legislature finds and declares that requiring the allocation of local sales tax revenue in the greater Sacramento region on a per capita basis serves a public purpose of each county or city imposing a sales tax in that region by reducing the unhealthy competition that currently exists between these entities for new retail establishments, helping to equate revenue streams with public service requirements, and allowing land use decisions to be made solely on the basis of land use planning considerations.

~~SEC. 7.—~~

SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000),

- 1 reimbursement shall be made from the State Mandates Claims
- 2 Fund.

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